

G-001/GR-90-700 ORDER ACCEPTING AND ADOPTING STIPULATION AND
OFFER OF SETTLEMENT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson
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Dee Knaak
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application
of Interstate Power Company for
Authority to Change its Rates
for Natural Gas Service in the
State of Minnesota

ISSUE DATE: June 27, 1991

DOCKET NO. G-001/GR-90-700

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PROCEDURAL HISTORY

I. INITIAL COMMISSION ACTION

On September 28, 1990 Interstate Power Company (Interstate or the Company) filed a petition for authorization to increase its rates for natural gas service. The Company requested an annual rate increase of approximately \$688,142, or approximately 8.5%.

On October 29, 1990 the Commission issued its ORDER REJECTING FILING AS INCOMPLETE, finding the Company had failed to provide a jurisdictional class cost-of-service study, as required in the Company's last general rate case Order. In the Matter of the Proposed Petition of Interstate Power Company for Authority to Increase Rates for Gas Utility Service in Minnesota, Docket No. G-001/GR-85-189, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (January 28, 1986), at page 20.

On November 13, 1990 the Company filed the missing cost study. On December 10, 1990 the Commission issued two Orders, one accepting the filing and suspending the proposed rates, the other referring the case to the Office of Administrative Hearings for contested case proceedings. The Office of Administrative Hearings assigned Administrative Law Judge Allan W. Klein to the case.

On December 31, 1990 the Commission set interim rates under Minn. Stat. § 216B.16, subd. 3 (1990). Interim rates were authorized as of January 1, 1991 and were set at a level allowing an additional \$664,300 in annual revenues.

II. PROCEEDINGS BEFORE THE ADMINISTRATIVE LAW JUDGE

The Administrative Law Judge (ALJ) held a prehearing conference on December 20, 1990, where he granted petitions to intervene by the Department of Public Service (the Department) and the Residential Utilities Division of the Office of the Attorney General (RUD-OAG). At the same prehearing conference the parties and the ALJ identified the major issues, established procedural guidelines, and set time tables.

All parties were represented by counsel. Kent M. Ragsdale, Interstate Power Company, 1000 Main Street, P.O. Box 769, Dubuque, Iowa 52004, represented the Company. Mark D. Fiddler, Special Assistant Attorney General, 1100 Bremer Tower, Seventh Place and Minnesota, St. Paul, Minnesota 55101, represented the Department. Dennis D. Ahlers, Special Assistant Attorney General, 340 Bremer Tower, Seventh Place and Minnesota, St. Paul, Minnesota, St. Paul, Minnesota 55101, represented the RUD-OAG.

A. Public Hearings

The ALJ held two public hearings to receive comments and questions from non-intervening ratepayers. Both hearings were in Albert Lea, Minnesota on February 7, 1991. Seven members of the public attended; two spoke. The ALJ also received three letters and one telephone call from members of the public. All public participants expressed concern about the proposed rate increase, especially its effect on ratepayers on fixed incomes.

Commission Chair Darrel Peterson, a member of the Commission staff, Company representatives, and Department representatives attended both hearings.

B. Evidentiary Hearings; Stipulation and Offer of Settlement

The ALJ convened evidentiary hearings in St. Paul on April 29, 1991. There the parties stated they had reached a settlement of all contested issues and submitted a Stipulation and Offer of Settlement to the ALJ. That document set forth the parties' resolution of previously contested issues and outlined the record evidence supporting their resolution of each one.

The ALJ admitted all prefiled testimony into the record. He then admitted the parties' Stipulation and Offer of Settlement for transmission to the Commission.

III. PROCEEDINGS BEFORE THE COMMISSION

The ALJ closed the record on April 29, 1991. On May 13, 1991 he issued an Order certifying the Stipulation and Offer of Settlement to the Commission. He returned the record to the Commission the same day.

On May 22, 1991 the matter came before the Commission. The parties made brief presentations urging adoption of the Stipulation and Offer of Settlement. Upon review of the entire record of this proceeding the Commission makes the following Findings, Conclusions, and Order.

FINDINGS AND CONCLUSIONS

IV. JURISDICTION

The Commission has general jurisdiction over the Company under Minn. Stat. §§ 216B.01 and .02 (1990). The Commission has specific jurisdiction over rate changes under Minn. Stat. § 216B.16 (1990). The matter was properly referred to the Office of Administrative Hearings under Minn. Stat. §§ 14.57-14.62 (1990) and Minn. Rules, parts 1400.0200 et seq.

V. FURTHER ADMINISTRATIVE REVIEW

Under Minn. Rules, part 7830.4100 any petition for rehearing, reconsideration, or other post-decision relief must be filed within 20 days of the date of this Order. Such petitions must be filed with the Executive Secretary of the Commission, must specifically set forth the grounds relied upon and errors claimed, and must be served on all parties. The filing should include an original, 13 copies, and proof of service on all parties.

Adverse parties have ten days from the date of service of the petition to file answers. Answers must be filed with the Executive Secretary of the Commission and must include an original, 13 copies, and proof of service on all parties. Replies are not permitted.

The Commission, in its discretion, may grant oral argument on the petition or decide the petition without oral argument.

Under Minn. Stat. § 216B.27, subd. 3 (1990), no Order of the Commission shall become effective while a petition for rehearing is pending or until either of the following: ten days after the petition for rehearing is denied or ten days after the Commission has announced its final determination on rehearing, unless the Commission otherwise orders.

Any petition for rehearing not granted within 20 days of filing is deemed denied. Minn. Stat. § 216B.27, subd 4 (1990).

VI. INTERSTATE POWER COMPANY

Interstate Power Company is an investor-owned gas and electric utility incorporated in the state of Delaware. It provides natural gas service in Minnesota to 8,990 retail customers, 99.5% of them residential. Its service area covers approximately 10,000 square miles and includes parts of Minnesota, Iowa, and Illinois. The Company's Minnesota service area lies in southeastern Minnesota and includes the cities of Albert Lea, Glenville, Adams, Leroy, Rose Creek, and Taopi.

This rate case involves only the Company's gas operations in the state of Minnesota.

VII. THE STIPULATION AND OFFER OF SETTLEMENT

The Company's initial filing alleged an annual revenue deficiency of \$688,142. The Department's initial filing agreed there was a revenue deficiency, but set it at \$465,970. After reviewing the Department's testimony and exhibits, the Company accepted its proposals for a cash working capital adjustment, an interest synchronization adjustment, and a billing errors adjustment.

As the facts of the case developed, the differences between the parties' positions continued to narrow. The revenue projections in the Company's initial filing, for example, assumed that the Company had permanently lost its largest customer, Farmstead Foods. When that company reopened, Interstate and the other parties agreed that the revenue deficiency should be reduced by approximately \$80,000. This reduced the amount of annual deficiency in dispute to \$142,954.

Similarly, the Department's early concerns about some of the Company's Conservation Improvement Program (CIP) expenditures were allayed by subsequent Company filings. This increased the Department-supported revenue deficiency by \$31,805.

At this point, the monetary differences between the parties' positions were small. There were few contested issues left, and none of them involved important issues of law or policy. The parties decided to seek a settlement of the remaining issues to conserve the resources of everyone involved. They settled the remaining issues of sales normalization, ratemaking treatment of rate case expenses, rate of return on common equity, and the appropriate level of the firm customer charge. The settlement stipulation set the Company's annual revenue deficiency at

\$545,208.

VIII. COMMISSION ACCEPTANCE AND ADOPTION OF THE STIPULATION AND OFFER OF SETTLEMENT

The Commission finds that the Stipulation and Offer of Settlement is supported by substantial evidence, represents a just and reasonable resolution of all individual issues raised in the rate case, promotes the public interest, and will result in just and reasonable rates. The Commission will accept and adopt the Stipulation and Offer of Settlement.

A. Substantial Evidence

The Stipulation and Offer of Settlement (the stipulation) provides thorough support from record evidence for its resolution of each individual issue. Since the Commission must base its rate case decisions on the record, this increases the stipulation's value and credibility immensely. Minn. Stat. § 14.60, subd. 2 (1990).

The Commission could approve the Stipulation and Offer of Settlement based on an independent review of the record, which it has of course conducted. It is reassuring, however, for the parties to demonstrate, as they have here, that the content of the record was central to their negotiations on every issue.

B. Reasonable Resolutions of Individual Issues

Similarly, the Commission finds that the resolutions reached by the parties on individual contested issues are just and reasonable. The 12.2% rate of return on common equity adopted by the parties is well within the zone of reasonableness. The compromise on the firm customer charge reflects the gradualist approach to rate change traditionally used by the Commission. The treatment of rate case expenses is consistent with longstanding Commission practice. The sales normalization adjustment agreed to reflects a reasonable projection of the Company's future sales.

Just as they set forth the evidentiary basis for their resolutions of individual issues, the parties also explained their basis in reason and policy. Again, the Commission finds this helpful and reassuring.

In non-ratemaking settlement negotiations it is common for parties to concede some issues to obtain a more favorable resolution of others they value more highly. This is reasonable and appropriate in private disputes, where the goal of the settlement process is to reach a result satisfactory to all

parties. In Commission proceedings, however, the goal of the process is to serve the public interest. This requires protecting the interests of the Company, the public, and all customer classes, whether or not their interests are vigorously represented. It requires resolving every issue within the bounds of acceptable regulatory practice, since future rate structures are built on the foundations established in past rate cases. For these reasons the Commission scrutinizes settlements with care and requires documentation of the reasonableness of the disposition of all issues.

Because the Commission is convinced that the stipulation's resolution of every issue is supported by substantial evidence, thorough reasoning, and sound public policy, the Commission will accept and adopt it.

C. Technical Corrections to Stipulation

The Stipulation and Offer of Settlement, which is attached, does contain three errors the parties have asked the Commission to note. The amount of the stipulated revenue requirement is \$545,208, not \$545,308, which appears in the document due to a typographical error. On page 3, line 4, the words "sales-normalization" should be changed to "loss-of-customer." Similarly, on page 6, in the second paragraph under "Cash Working Capital," the number \$19,256 should be \$16,946.

ORDER

1. The Commission accepts and adopts the Stipulation and Offer of Settlement as corrected above in part **VIII. C.** That document is attached and incorporated into this Order.
2. Within 30 days of the date of this Order, the Company shall file with the Commission for its review and approval, and serve on all parties to this proceeding, revised schedules of rates and charges reflecting the provisions of this Order for annual periods beginning January 1, 1991.
3. Within 30 days of the date of this Order, the Company shall file and serve on all parties to this proceeding proposed customer notices explaining the final rates it proposes to charge.
4. Within 30 days of the date of this Order, the Company shall file and serve on all parties to this proceeding a proposed plan for refunding with interest the amount by which interim rate revenues exceeded final revenues approved herein.

5. Comments on any Company filing required under this Order shall be filed within 15 days of the Company's service of the filing.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)